

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13**

GOODFISH ENTERPRISES LLC  
Plaintiff Below,  
Appellant

VS

ESMERALDA NAVA  
EMMA F. NIETO  
Defendant Below,  
Appellee

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C.A. No. JP13-23-002806

TRIAL DE NOVO

Submitted: September 5, 2023  
Decided: September 12, 2023

**APPEARANCES:**

Goodfish Enterprises LLC, Plaintiff, appeared represented by Form 50 agent Christopher Lukacs  
Esmeralda Nava, Defendant, appeared Pro se  
Emma F Nieto, Defendant, appeared Pro se

Sean McCormick, Deputy Chief Magistrate, Justice of the Peace  
Peter Burcat, Justice of the Peace  
Nina Bawa, Justice of the Peace

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6CF14A3J (3/1/19)

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY  
COURT NO. 13**

**CIVIL ACTION NO: JP13-23-002806**

**GOODFISH ENTERPRISES LLC VS ESMERALDA NAVA ET AL**

**ORDER ON TRIAL DE NOVO**

The Court has entered a judgment or order in the following form:

A three-judge panel consisting of Deputy Chief Magistrate Sean McCormick and Judges Peter Burcat and Nina Bawa went forth in the above-captioned matter. Plaintiff in the matter, Goodfish Enterprises LLC, brought this action for possession of a rental unit and monies due pursuant to 25 Del. C. § 5702(2). This, of course, requires filing only after proper notice is sent, pursuant to 25 Del. C. § 5502(a):

*§ 5502. Landlord remedies for failure to pay rent.*

*(a) A landlord or the landlord's agent may, any time after rent is due, including the time period between the date the rent is due and the date under this Code when late fees may be imposed, demand payment thereof and notify the tenant in writing that unless payment is made within a time mentioned in such notice, to be not less than 5 days after the date notice was given or sent, the rental agreement shall be terminated. If the tenant remains in default, the landlord may thereafter bring an action for summary possession of the dwelling unit or any other proper proceeding, action or suit for possession.*

Thus, it is plain that under 25 Del. C. §5502, the landlord is required to send a formal demand for payment prior to commencing an action for possession. Such demand notice is referred to as “the five-day letter” or “five day notice” because the least amount of time that a landlord may give a tenant to cure the non-payment of rent is five (5) business days. *Bomba's Rest. & Cocktail Lounge, Inc. v. Lord De La Warr Hotel, Inc.*, 389 A.2d 766 (Del. 1978) specifies that this is a Court of statutory jurisdiction so this Court lacks jurisdiction if the requirements of the statute are not met. The Plaintiff must fully comply with the applicable statutory requirements in order for the Court to issue a judgment.

Pre-trial it was determined that only a portion of the ledger had been offered as an exhibit for the panel to review. A gap existed in what was provided from February, 2020 and September of 2022. The problem this caused was that the panel was unable to determine if the amount claimed withing the 5-day letter was accurate or not – a fact of consequence since the tenants, Ms. Nava and Ms. Nieto, contested that any rental debt was due. Without the completeness of the ledger, the Panel’s jurisdiction is speculative. As such, the panel dismissed the matter without prejudice. The Plaintiff may refile as he sees fit.

IT IS SO ORDERED 12th day of September, 2023

/s/ Sean McCormick

DEPUTY CHIEF MAGISTRATE  
ON BEHALF OF THREE JUDGES



Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. C.W. Form No. 14A3J).

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